

7 | *Counsel for Chris McAlary*

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

CASH CLOUD, INC.,
dba COIN CLOUD,

Debtor.

Case No.: Case No. BK-S-23-10423-
MKN

Chapter 11

**EX PARTE APPLICATION FOR
ORDER SHORTENING TIME FOR
HEARING ON MOTION TO
CONVERT CASE TO
CHAPTER 7**

Hearing Date: N/A
Hearing Time: N/A

Chris McAlary (“McAlary”), by and through its counsel, the law firm of Carlyon Cica Chtd., hereby submits its Ex Parte Application (the “Application”) for the Court to shorten the time to hear the McAlary’s *Motion to Convert Case to Chapter 7* [ECF No. 1034] (the “Motion”).

This Application is made and based upon Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 9006 of the Local Rules of Bankruptcy Procedure for the United States Bankruptcy Court for the District of Nevada (the “Local Rules”), the Declaration of Dawn M. Cica, Esq. (the “Cica Declaration”) filed in support of the Application

1 and contemporaneously herewith, the Attorney Information Sheet required by the Local Rules,
 2 the points and authorities set forth below, and the papers and pleadings on file herein, judicial
 3 notice of which is respectfully requested pursuant to FRE 201.

4 **I. LEGAL AUTHORITY**

5 Bankruptcy Rule 9006(c)(1) permits a Bankruptcy Court for cause shown, and in its
 6 discretion, to reduce the period during which any notice is given. Bankruptcy Rule 9006(c)(1)
 7 provides as follows:

8 Except as provided in paragraph (2) of this subdivision, when an act is required
 9 or allowed to be done at or within a specified time by these rules or by a notice
 10 given thereunder or by order of court, the court for cause shown may in its
 discretion with or without motion or notice order the period reduced.

11 The Motion to Convert should be heard contemporaneously with the confirmation of
 12 the Debtor's Plan which is currently set for August 17, 2023. On August 1, 2023, *Debtor filed*
 13 *its First Amended Chapter 11 Plan Of Reorganization Dated August 1, 2023* [ECF No.
 14 996](the “Amended Plan”). The Amended Plan contains substantial changes from the plan as
 15 originally proposed, including eliminating funding for the creditors' trust, establishing a
 16 second “secured claims trust” with secured creditors to receive interests in that trust rather than
 17 direct payments (impairing a previously unimpaired class), and delaying the Effective Date
 18 until sufficient funds exist to pay administrative creditors. No amended disclosure statement
 19 was filed, and the Debtor has not provided the twenty-one days' notice required by
 20 Fed.R.Bankr.P. 2002(a)(5).

21 The Debtor's conduct within the last week in connection with the sale of the estate's
 22 litigation against the Co-Chair of the Committee, BitAccess and Bitcoin Depot as described
 23 more fully in the Declaration of Christopher McAlary in Support of his Motion to Convert
 24 Case to Chapter 7 filed substantially contemporaneously herewith, along with the enormous
 25 professional fees which are being incurred on a daily basis, demonstrate that it is appropriate
 26 to convert the case as an alternative to confirmation, which is scheduled to be heard next week
 27 notwithstanding a materially amended plan filed August 1. *Cica Declaration* at Para. 4. The
 28

CARLYON CICACHTD.
 265 E. Warm Springs Road, Suite 107
 Las Vegas, NV 89119

1 urgency includes the Debtor's statement that a payment of approximately CAD260,000
2 necessary to preserve claims against BitAccess is past due. While the Debtor agreed to sell
3 claims to Mr. McAlary, drafted the sale motion, and (on August 5, 2023) recited that it was
4 necessary to hear the sale motion on shortened time due to this fact, the Debtor subsequently
5 stated that due to the Committee's objection it would not be moving forward to approve the
6 agreed sale. The Committee's co-chair is one of the chief litigation targets. *Cica Declaration*
7 at Para. 5. While the Debtor is seeking confirmation of an amended plan at a hearing currently
8 scheduled for August 17, 2023, the Debtor has not disclosed the extent to which administrative
9 claims (and in particular professional fees) have grown to the extent that the plan (which has
10 been revised to delay the effective date until such fees can be paid) cannot go effective. *Cica*
11 *Declaration* at Para. 6. The proposed plan is a liquidating plan, and it is clear that liquidation
12 can much more efficiently be achieved by a chapter 7 trustee, who will also provide a neutral
13 resource for determining issues regarding potential prosecution, settlement or sale of such
14 claims. *Cica Declaration* at Para. 7.

15 Local Rule 9006 provides further authority for shortening the time for a hearing. Local
16 Rule 9006(a) requires that every motion for an order shortening time must be accompanied by
17 an affidavit stating the reasons for an expedited hearing. Local Rule 9006 also requires the
18 moving party to submit an Attorney Information Sheet indicating whether opposing counsel
19 was provided with notice, whether opposing counsel consented to the hearing on an order
20 shortening time, the date counsel was provided with notice and how notice was provided or
21 attempted to be provided. An Attorney Information Sheet was filed contemporaneously with
22 this Application, indicating any consent or objection to a hearing on shortened time so
23 provided.

24 **II. CONCLUSION**

25 McAlary respectfully requests that the Court grant this Application and issue an order
26 shortening the time and for any further relief this Court deems just and proper.
27
28

CARLYON CICACHTD.
265 E. Warm Springs Road, Suite 107
Las Vegas, NV 89119

1 Respectfully submitted this 7th day of August 2023.

CARLYON CICA CHTD.

/s/ Dawn M. Cica

CANDACE C. CARLYON, ESQ.
Nevada Bar No. 2666
DAWN M. CICA, ESQ.
Nevada Bar No. 4565
265 E. Warm Springs Road, Suite 107
Las Vegas, Nevada 89119
Telephone: (702) 685-4444
Email: ccarlyon@carlyoncica.com
dcica@carlyoncica.com

Counsel for Chris McAlary

CARLYON CICA CHTD.
265 E. Warm Springs Road, Suite 107
Las Vegas, NV 89119

CERTIFICATE OF SERVICE

I am an employee of Carlyon Cica Chtd. On the date of filing of the foregoing papers with the Clerk of Court I caused a true and correct copy to be served in the following manner:

ELECTRONIC SERVICE: Pursuant to LR 2002 of the United States Bankruptcy Court for the District of Nevada, the above-referenced document was electronically filed and served on all parties and attorneys who are filing users through the Notice of Electronic Filing automatically generated by the Court.

UNITED STATES MAIL: By depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

OVERNIGHT COURIER: By depositing a true and correct copy of the above-referenced document for overnight delivery via a nationally recognized courier, addressed to the parties listed below which was incorporated by reference and made final in the w at their last-known mailing address.

FAXSIMILE: By sending the above-referenced document via facsimile to those persons listed on the attached service list at the facsimile numbers set forth thereon.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Nancy Arceneaux

An employee of Carlyon Cica Chtd.

CARLYON CICA CHTD.
265 E. Warm Springs Road, Suite 107
Las Vegas, NV 89119